

97TH CONGRESS

2ND SESSION

S. \_\_\_\_\_

(NOTE.—Fill in all blank lines except those provided for the date, number, and reference of bill.)

IN THE SENATE OF THE UNITED STATES

Mr. \_\_\_\_\_

Select

introduced the following bill; which was read twice and referred to the Committee on Intelligence

## A BILL

To provide for equitable sharing by the spouses of qualifying Central Intelligence Agency officers in benefits paid by the Central Intelligence Agency Retirement and Disability System.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

That this Act may be cited as the "Central Intelligence Agency Retirement and Disability System Spouses' Equity Act of 1982."

SEC. 2. Section 204 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50, U.S.C. 403 note) is amended by inserting the words "former spouses," after the phrase "including surviving wives and husbands," and by adding the following paragraph to Subsection (b): "(4) 'Former spouse' means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during period of service by that participant which are creditable under Sections 251 and 252 of this Act."

SEC. 3. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended by adding the following section:

"SEC. 222. FORMER SPOUSES.--(a)(1) Unless otherwise expressly provided by any spousal agreement or court order under Section 263(b), a former spouse of a participant or former participant is entitled to an annuity --

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) The annuity of a former spouse under this subsection commences on the later of the day the participant upon whose service the annuity is based becomes entitled to an annuity under this chapter or the first day of the month in which the divorce or annulment involved becomes final. The annuity of such former spouse and the right thereto terminate on --

(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph(5)(B

(4) No spousal agreement or court order under Section 263(b) involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant, nor may any such court order relating to an annuity under this subsection be given effect if it is issued more than 12 months after the date the divorce or annulment involved becomes final.

(5)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that

participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this chapter, and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection(b) or Section 221(b)

(B) If any annuitant whose annuity is reduced under subparagraph(A) is recalled to service under section 271, or reinstated or reappointed in the Service in the case of a recovered disability annuitant or if any annuitant is re-employed as provided for under section 272 and 273, the salary of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Fund.

(6) Notwithstanding paragraph(3), in the case of any former spouse of a disability annuitant --

(A) the annuity of that former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for an annuity under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(7) An annuity under this subsection shall be treated the same as a survivor annuity under subsection(b) for purposes of section 221(g)(2) or any comparable provision of law.

(b)(1) Subject to any election under section 221(b)(1)(C) and unless otherwise expressly provided by any spousal agreement or court order under section 263(b), if a former

participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity --

(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 221(a), or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 55 percent of the full amount of such annuity.

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) An annuity payable from the Fund to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 221(b)(3)) with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 221(a).

(B) Once a survivor annuity has been provided for under this subsection for any former spouse, a survivor annuity may thereafter be provided for under this subsection (or section 221(b)(3)) with respect to a participant or former participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such

has not terminated by reason of death or remarriage.

(C) After the death of a participant or former participant, a court order under section 263(b) may not adjust the amount of the annuity of any former spouse under this section.

(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 221(b)(3) for any spouse of the participant.

(c)(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection(b) for a former spouse --

(A) such participant may elect, or

(B) a spousal agreement or court order

under section 263(b)(3) may provide for, an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Director.

(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section and section 221, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 221(a).

(3)(A) In accordance with regulations which the Director shall prescribe, the participant involved may provide for any annuity under this subsection --

(i) by a reduction in the annuity or an allotment from the salary of the participant,

(ii) by a lump sum payment or installment payments to the Fund, or

(iii) by any combination thereof.

(B) The present value of the total amount to accrue to the Fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Director.

(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage) --

(i) if an annuity reduction or salary allotment under subparagraph(A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

(ii) any amount accruing to the Fund under subparagraph(A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Director.

(D) Under regulations prescribed by the Director, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph(C),

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in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this chapter.

(4) An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

(5) Section 291 shall not apply to any annuity under this subsection, unless authorized under regulations by the Director.

(d) Section 221(1) shall not apply --

(1) to any annuity payable under subsection(a) or (b) to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 263(b), or an election under section 221(b)(1)(B), from the amount which would be calculated under subsection (a)(1) or (b)(1), as the case may be, in the absence of such spousal agreement, court order, or election; and

(2) to any annuity payable under subsection(c).

SEC. 4. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended by striking existing subsection 221(b) and replacing it with the following:

(b)(1)(A) Except to the extent provided otherwise under a written election under subparagraph(B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 222(b), or a combination of such annuities, as the case may be.

(B) At the time of retirement, a married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 222(b) if the spouse later qualifies as a former spouse under section 204(b)(4)), or to reduce such survivor annuity under this section (or section 222(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. In the event the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 222(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

(C) If a participant or former participant has a former spouse, the participant and such former spouse may jointly elect by spousal agreement under section 263(b) to waive a survivor annuity under section 222(b) for that former spouse if the election is made (i) before the end of the 12-month period after the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement, whichever occurs first.

(D) The Director may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Director that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 222(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2 1/2 percent of the first \$3,600 plus 10 percent of any amount over \$3,600. The reduction under this paragraph shall be calculated before any reduction under section 222(a):



(3)(A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 percent of the full amount of the participant's annuity computed under subsection(a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph(1)(B).

(B) Notwithstanding subparagraph(A), the amount of the annuity calculated under subparagraph(A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 222(b) may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 222(b)(4)(B).

(C) An annuity payable from the fund to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the fund.

SEC. 5. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended by adding in subsection 221(f) the following words prior to the word "(1)":

"Subject to the rights of former spouses under sections 221(b) and 222,".

SEC. 6. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended by adding in subsection 221(8) the word "(1)" immediately before the phrase "In the case of remarriage on or after age sixty", by replacing the words "(1)" and "(2)" with the words "(i)" and "(ii)" respectively, and by adding the following paragraph to that subsection:

"(2) A surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the Fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than that participant."

SEC. 7. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended by adding to section 221 the following subsections:

"(m)(1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under subsection 271(b) shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

(2) The Director shall issue regulations to provide for the application of paragraph(1) of this subsection and of subsection 271(b) in any case in which an annuitant has a former spouse who was married to the participant at any time during a period of recall service and who qualifies for an annuity under section 222(b).

(n) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject

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to any reduction required to provide a survivor benefit under section 222(b) or (c). Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 222(b)(5)), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under subsection(b).

(o) The Director shall, on an annual basis --

(1) inform each participant of his or her right of election under subsections(f)(2) and (n); and

(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and section 222."

SEC. 8. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended by adding to subsection 221(1) the following paragraph:

"(4) This subsection shall not apply to the extent provided in section 222(d)."

SEC. 9. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended by replacing the word "None" in section 263 with the words, "(a) Except as provided in paragraph(b) of this section, none" and adding the following paragraph to that section:

"(b) Payments under this Act which would otherwise be made to a participant or the child, survivor, or former spouse of a participant based upon the service of the participant shall be paid (in whole or in part) by the

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Director directly to a former spouse if and to the extent expressly provided for in the terms of any legally-enforceable spousal agreement or recognized court decree of divorce, annulment, or legal separation between the participant, and that former spouse, or the terms of any recognized court order or court-approved property settlement agreement incident to any such spousal agreement or court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a party to a spousal agreement, or court decree of divorce, annulment, or legal separation or property settlement agreement incident thereto shall bar recovery by any other person."